

## **Assembly Committee on Labor and Employment 2003-2004 Legislative Summary**

### **AB 76            Corbett            Employment discrimination**

This bill clarifies language in the Fair Employment and Housing Act (FEHA) to ensure that under state law employers may potentially be liable for sexual harassment committed against their workers by clients, customers and other third parties if they knew or should have known of the harassment, and failed to take immediate and appropriate corrective action to stop the harassment. This bill effectively repudiates the reasoning of a recent court of appeal decision in Salazar v. Diversified Paratransit, Inc., 103 Cal. App. 4th 131 (2000).

*Status: Chapter # 671, Statutes of 2003.*

### **AB 89            Bogh            Prevailing wages: payroll records: digitized copies**

Revises the form by which certified payroll records may be made available for purposes of examining prevailing wage compliance. Specifically, this bill provides that a certified copy of an employee's payroll record includes a printout of a digitized image of an original payroll record, if the printout is provided by a bank or a financial institution that scanned the original payroll record.

*Status: Dead bill, Assembly Committee on Labor and Employment.*

### **AB 98            Koretz            Employment: meal and rest periods**

This bill is a companion to administrative action occurring before the Industrial Welfare Commission (IWC). The IWC is currently considering an amendment to one of its wage orders to provide for meal and rest periods for commercial drivers employed by public agencies. AB 98 clarifies that, if the IWC adopts or amends such a wage order, it may establish a collective bargaining exemption for employees covered by a valid collective bargaining agreement.

*Status: Chapter # 327, Statutes of 2003.*

### **AB 196            Leno            Discrimination**

Expands the definition of sex to include gender, actual or perceived, for purposes of defining unlawful employment discrimination. This bill broadens the scope of sex discrimination prohibited under the Fair Employment and Housing Act (FEHA) to include the employee's gender. Gender is defined as the employee's actual sex, or the employer's perception of the employee's identity, appearance, or behavior, even if these characteristics differ from those traditionally associated with the employee's sex at birth. The bill provides explicitly that the ability of employers to adopt reasonable workplace appearance, grooming and dress standards is not affected, provided that an employer allow an employee to appear or dress consistently with the employee's gender.

*Status: Chapter # 164, Statutes of 2003.*

**AB 223          Diaz          Employment: attorney's fees**

This bill overturns a recent holding of the California Supreme Court regarding the awarding of attorney's fees and costs following the appeal of a Labor Commissioner decision or award to the trial court, and restores the state of the law prior to this decision. In Smith v. Rae-Venter Law Group, 29 Cal. 4th 345 (2002), the court held that an appealing party is unsuccessful unless the court judgment is more favorable to the appealing party than the Labor Commissioner's award. AB 223 specifies that an employee is successful in the appeal of an award so long as the employee recovers an amount greater than zero.

*Status: Chapter # 93, Statutes of 2003.*

**AB 244          Maze          Overtime**

This bill would have eliminated various statutory requirements relating to hours worked, daily overtime, alternative workweek scheduling, meal periods, and days of rest. Among other things, AB 244 would have eliminated the statutory requirement that work in excess of eight hours a day be compensated at one and one-half times the employee's regular rate of pay. In addition, AB 244 would have eliminated certain exemptions for employees covered by a valid collective bargaining agreement and would have instead provided that the entire chapter of the Labor Code dealing with hours of work does not apply where there is any collective bargaining agreement respecting the hours of work of the employees. This bill also would have eliminated the statutory requirement to provide meal periods to employees.

*Status: Dead bill, Assembly Committee on Labor and Employment.*

**AB 274          Koretz          Employment retaliation**

AB 274 creates a rebuttable presumption that certain adverse employment action taken against an employee within 60 days after the employee has exercised his or her rights under the Labor Code is retaliatory in violation of existing law. This bill provides that the presumption is inapplicable if the discharge or layoff is the result of the completion of a limited term work project, the employee was hired with the understanding that the employment was limited to that term, and the limited term employment is not designed or created to avoid application of the presumption. This bill is a reintroduction of AB 2990 (Koretz), which was vetoed by Governor Davis last session, and makes changes to address the Governor's previous veto message.

*Status: Vetoed by the Governor.*

**AB 276          Koretz          Penalties for Labor Code violations**

This bill increases the fines and civil penalties for specified violations of the Labor Code, and earmarks a portion of the increased penalties to a fund within the Labor and Workforce Development Agency dedicated to educating employers about their obligations under state labor law.

*Status: Chapter # 329, Statutes of 2003.*

**AB 324          Diaz          Public works: labor compliance programs**

This bill codifies state regulations requiring a labor compliance program on a public works project be approved by the Director of the Industrial Relations, and modifies the formula that provides reimbursement for increased costs associated with labor compliance programs pursuant to the School Bonds Acts.

*Status: Chapter # 834, Statutes of 2003.*

**AB 330          Parra          Working conditions**

This bill exempts from the meal period requirement in existing law, certain employees in the wholesale baking industry who are covered by a valid collective bargaining agreement.

*Status: Chapter # 207, Statutes of 2003.*

**AB 446          Matthews          State employees: wages**

This bill, sponsored by the California State Employees Association, requires wages earned by state employees with regularly designated paydays to be paid on those paydays. Permanent intermittent state employees that do not have regularly designated paydays shall be paid within five days after the close of the payroll period. AB 446 also makes penalties for failure to pay wages of state employees inapplicable where the failure to pay is due to earthquake, fire, or other public calamity, or if the California Constitution or other law prevents the payment of wages in a timely manner.

*Status: Vetoed by the Governor.*

**AB 570          Chu          Garment manufacturers: fees**

Authorizes the Labor Commissioner to distribute the full amount of a specified fund to pay garment workers for damages or relief awarded as a result of violations of Industrial Welfare Commission orders or the Labor Code.

*Status: Dead bill, Assembly Appropriations Committee.*

**AB 572          Yee          Employment: working conditions**

This bill would have provided that it is an unlawful employment practice for an employer to subject an employee to adverse employment action if the employee participates in protected activities, including refusal to perform unsafe work. AB 572 also would have increased penalties for violations of these provisions and would have revised certain complaint and investigation procedures of the Division of Labor Standards Enforcement (DLSE).

*Status: Dead bill, Senate Appropriations Committee.*

**AB 643          Mullin          Occupational Safety and Health Standards Board**

This bill revises procedures for appointing members to the Occupational Safety and Health Standards Board. Specifically, this bill limits the period Standards Board members may hold office to 60 days after the expiration of their term, if no successor is appointed. Under current law, a member whose term has expired may continue to hold office indefinitely, until a successor is appointed. The bill also authorizes the Senate Committee on Rules and the Speaker of the Assembly to appoint a successor to fill a vacancy if the governor fails to appoint a successor within 60 days of the vacancy and requires that the two labor representatives on the Standards Board be from the field of organized labor.

*Status: Vetoed by the Governor.*

**AB 796          Bogh          Occupational safety and health: fines**

This bill establishes a procedure for police and fire departments to apply for a refund of civil or administrative penalties imposed against them for violations of laws related to safety in employment. Such procedures exist under current law for educational entities and institutions.

*Status: Dead bill, Assembly Committee on Appropriations.*

**AB 807          Leno          Public works: prevailing wage**

Specifically, this bill provides that an employer may only credit pension or other contributions against their prevailing wage obligations when the employer makes such contributions on at least a quarterly basis. It is unclear under existing law whether contractors on public works projects are required to pay the health and welfare portion of prevailing wage in a timely manner, and that accordingly, some contractors have been found skirt their health and welfare payment responsibilities. This bill is intended to address the problem by providing that employers are unable to credit the health and welfare portion of their prevailing wage obligations if they pay on at least a quarterly basis.

*Status: Chapter # 839, Statutes of 2003.*

**AB 852          Lieber          Prevailing wages: determinations**

This bill establishes a mechanism for the determination of prevailing wage rates on non-public works projects, where a public and private entity voluntarily agree by contract that the employees will receive prevailing wages on the project. Under this bill, the Director of the Department of Industrial Relations (DIR) is required to provide the requested wage rates in the order in which the requests were received and is only required to respond to the first 20 requests in any calendar year, unless funding is available.

*Status: Chapter # 343, Statutes of 2003.*

**AB 880      Diaz      Taxation: temporary employment agency contributions**

This bill imposes a 5% payroll on all temporary employment agencies in California, and requires revenues to be distributed to local governments throughout the state for health services, prevention of homelessness, affordable housing, and public safety services.

*Status: Dead bill, Assembly Committee on Appropriations.*

**AB 1018      Nakanishi      School construction and modernization: prevailing wages**

Exempts new school facility construction or modernization projects from any requirement to pay local prevailing wages.

*Status: Dead bill, Assembly Committee on Labor and Employment.*

**AB 1028      Bermudez      California Apprenticeship Council**

This bill extends the authorization of the California Apprenticeship Council to adopt industry-specific training criteria for use by apprenticeship programs under its jurisdiction. Such authorization shall remain in effect until January 1, 2007 unless subsequent legislation deletes or extends that date. AB 1028 also declares legislative intent that the Department of Industrial Relations will encourage greater participation for women and ethnic minorities in apprenticeship programs.

*Status: Chapter # 842, Statutes of 2003.*

**AB 1061      Firebaugh      Employment Training Panel**

This bill seeks to enhance small business access to Employment Training Panel (ETP) programs and resources. Among other things, this bill requires ETP to annually update its three-year plan to include goals, operational objectives and strategies with respect to meeting the needs of small businesses. AB 1061 also declares legislative intent for ETP to continue efforts to assist aerospace and defense suppliers through workforce training.

*Status: Chapter # 844, Statutes of 2003.*

**AB 1064      Laird      Public transit district pension plans**

AB 1064 establishes requirements for public transit district pension plans that parallel requirements under federal law. Where the employees are represented by a labor organization or are members of a unit appropriate for collective bargaining, the plan must be maintained pursuant to a collective bargaining agreement. In addition, AB 1064 requires equal representation of labor and management on pension boards and requires any deadlock to be resolved through arbitration. Exempted from the requirements of this bill are plans with enrollment in CalPERS, a retirement system established pursuant to the County Employees Retirement Law of 1937, or a trust subject to ERISA. The requirements of AB 1064 also do not apply if the corresponding changes would require a vote of the electors pursuant to the California Constitution or where the membership of the governing board is directly elected by the voters.

*Status: Chapter # 845, Statutes of 2003.*

**AB 1093      Lieber      Living wage**

This bill would enact provisions known as the California Living Wage Act. This bill requires the state, and specified contractors and subcontractors that perform work under a contract for a state agency, to pay not less than a living wage to employees performing work under that contract. This bill would also authorize an employee to sue to recover unpaid wages, costs, and attorney's fees from a contractor or subcontractor. This bill would also require certain provisions to appear in a qualified contract and any subcontract to that qualified contract. Under this bill, "living wage" means \$10 per hour if the employee receives health insurance coverage, or \$12 per hour if the employee does not receive health insurance coverage. These amounts can be adjusted by the Department of Finance to reflect any increase in the California Consumer Price Index, or by an amount that may be determined annually as an adequate living wage standard by the Division of Labor Statistics and Research of the Department of Industrial Relations. This bill also provides various exemptions from the requirement to pay a living wage.

*Status: Vetoed by the Governor.*

**AB 1127      S. Horton      Workforce Investment Board**

This bill changes obsolete references to the Job Training Partnership Act and replaces them with references to the successor federal Workforce Investment Act of 1998. This bill also renames the State Job Coordinating Council as the California Workforce Investment Board and makes other technical, nonsubstantive and conforming changes to existing law.

*Status: Labor provisions subsequently amended out of the bill.*

**AB 1132      Koretz      Industrial homework**

This bill amends enforcement and appeal procedures following the confiscation of goods unlawfully manufactured in the home by establishing a procedure whereby the destruction and disposal of such goods does not require court authorization if there is no challenge to the confiscation. In most cases, alleged violators do not appeal the confiscation. The objective of this measure is to create a more efficient process by providing for an expeditious and inexpensive administrative appeal procedure.

*Status: Chapter # 214, Statutes of 2003.*

**AB 1133      Koretz      Collection of wage and hour judgments**

This bill establishes a penalty equal to the amount of the original judgment for wage and hour judgments that remain unsatisfied for six months after the judgment is final and the time to appeal has passed. Under AB 1133, the penalty is applied for each additional six-month period the judgment remains unsatisfied, but the penalty shall be applied no more than four times.

*Status: Vetoed by the Governor.*

**AB 1140      Cox                      Public works: refuse hauling**

This bill would have repealed the provision of existing law defining "public works" for purposes of prevailing wage law to include the hauling of refuse from a public works site to an outside disposal facility.

*Status: Dead bill, Assembly Committee on Labor and Employment.*

**AB 1147      Houston                      Public transit meal periods**

This bill exempts private employers that provide contracted services to public transit operators from the meal and rest period requirements of existing law. AB 1147 also declares legislative intent to remove any unnecessary or restrictive provisions on private transportation carriers providing cost-effective and vital services to public transit operators.

*Status: Dead bill, Assembly Committee on Labor and Employment.*

**AB 1223      McCarthy                      Mass layoffs, relocations, and terminations**

This bill repeals existing law as added by AB 2957 (Koretz), which precludes employers from ordering a mass layoff, relocation, or termination, of an industrial or commercial facility employing a prescribed number of people, without first giving 60 days' notice to affected employees and specified government agencies.

*Status: Dead bill, Assembly Committee on Labor and Employment.*

**AB 1243      Houston                      Apprenticeship agreements**

This bill provides that certain provisions of state law relating to apprenticeships will not serve to invalidate specified federally approved apprenticeship programs or restrict the geographic eligibility for dispatch of apprentices.

*Status: Dead bill, Assembly Committee on Labor and Employment.*

**AB 1288      Lieber                              Employment services; aliens**

This bill exempts charitable organizations offering employment services from the requirement to verify an individual's legal status or authorization to work prior to providing services.

*Status: Dead bill, Assembly Committee on Labor and Employment.*

**AB 1310      Dutton      Public works: prevailing wages**

This bill would have modified the methodology for determining the prevailing wage rate by requiring the Director of the Department of Industrial Relations to consider only the applicable wage rates established by collective bargaining agreements and the rates that may have been predetermined for federal public works within the locality. AB 1310 would require that, if the rates do not constitute the rates actually prevailing in the locality, the Director shall consider data from the nearest labor market area. This bill also would have exempted from the requirements of prevailing wage law prefabrication work that is performed at permanent off-site facilities.

*Status: Dead bill, Assembly Committee on Labor and Employment.*

**AB 1344      Garcia      Prevailing wages; exclusions: real property transfers**

Creates an exclusion to prevailing wage requirements by excluding from prevailing wage requirements any project that is funded in whole or in part by a donation of a vacant parcel of real property zoned for affordable single or duplex housing units, by a city, county, or redevelopment agency to a nonprofit corporation.

*Status: Dead bill, Assembly Committee on Labor and Employment.*

**AB 1345      Reyes      On-air broadcast employees**

AB 1345 would enact the "Broadcast Industry Freedom of Contract Act" to prohibit the inclusion of specified term or clauses in employment contracts between broadcast employers and on-air employees. Specifically, this bill would prohibit clauses that require an employee to negotiate exclusively with an employer about future employment during the final 12 months of a contract. This bill would also make unlawful any clause that prohibits an employee from communicating or negotiating with a third party or entering into an agreement about future employment. Finally, AB 1345 would prohibit terms that impose any "right-of-first-refusal" or other obligations upon an on-air employee. An aggrieved party would be entitled to actual damages or \$5,000, injunctive relief, attorney's fees and costs. Similar language was amended into AB 135, which was held on the Senate Inactive File as a two-year bill.

*Status: Died on Assembly Inactive File.*

**AB 1418      Laird      Labor: violations**

Establishes minimum penalties relating to violations of prevailing wage requirements, and requires the Contractors State Licensing Board (CSLB) to make information regarding specified contractors available on its Internet Web site. Specifically, this bill would require that, in addition to the \$50 maximum penalty per day, the penalty not be less than \$10 per day, unless the failure to pay the prevailing rate of per diem wages was a good faith mistake and was promptly and voluntarily corrected when brought to the contractor's or subcontractors's attention. This bill would also require the penalty not be less than \$20 per day for contractors and subcontractors with prior violations, and not be less than \$30 per day for willful violations.

*Status: Chapter # 849, Statutes of 2003.*



**AB 1421      Cogdill      Public works: prevailing wages**

This bill repeals many of the provisions of SB 975 (Alarcón) from last session which, among other things, redefined "public works" to include projects that are undertaken by private developers in cooperation with a public agency or a project that is bid by a public agency using a combination of public and private financing or assistance. AB 1421 also excludes "installation" from the definition of public works. In addition, this bill exempts from the requirements of prevailing wage law any public works project of a community facilities district located within a charter city that has established its own exemptions from the requirements of prevailing wage law.

*Status: Dead bill, Assembly Committee on Labor and Employment.*

**AB 1459      Houston      Labor standards: local jurisdictions**

This bill would repeal AB 2509 (Goldberg) enacted last session. AB 2509 authorized local jurisdictions to impose labor standards that are more stringent than those required by state law on projects and activities that receive state funding or assistance, so long as those standards do not conflict with or are preempted by state law. Existing law also prohibits state agencies from requiring local jurisdictions to refrain from applying local labor standards as a condition to receiving state funds or assistance.

*Status: Dead bill, Assembly Committee on Labor and Employment.*

**AB 1471      Haynes      Safety in employment**

Repeals AB 2837 (Koretz), which was signed into law in 2002. AB 2837 revised reporting and investigation procedures of workplace accidents resulting in serious injury or death, as well as the investigation and prosecution of criminal violations of those accidents. It also added civil and criminal penalties for failure to report accidents in order to address the lack of timely reporting of workplace accidents, problems in the investigation of accidents, and the need for early coordination with prosecutors.

*Status: Dead bill, Assembly Committee on Labor and Employment.*

**AB 1506      Negrete McLeod      Public works: projects funded by bonds**

This bill requires the body awarding the contract for a public works project financed with funds made available by the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century to adopt and enforce a labor compliance program related to the payment of prevailing wages. The Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century, if approved by the voters at the November 2004 general election, would authorize the issuance of \$9.95 billion for purposes of financing the planning and construction of a high-speed train system and associated rail improvements. AB 1506 also would specify that state administrative costs associated with the labor compliance programs would be supported as costs of the agency with responsibility for the administration of the bond program or the costs of construction.

*Status: Chapter # 851, Statutes of 2003.*

**AB 1529      Pavley      Labor Standards: Meal and rest periods**

This bill provides that the provisions of law pertaining to meal periods and rest periods for employees apply to nurses, medical center employees, and employees of health clinics, employed by a public institution that issues doctorate degrees in health care professions, subject to specified exceptions.

*Status: Dead bill, Assembly Committee on Labor and Employment.*

**AB 1536      Goldberg      Discrimination**

This bill streamlines Department of Fair Employment and Housing procedures required under existing law relating to service of complaint, service by private counsel, authority to award damages for emotional distress, and the authority to seek an injunction.

*Status: Chapter # 447, Statutes of 2003.*

**AB 1539      Houston      Prevailing wages: sole proprietorships**

This bill would exempt from the requirements of prevailing wage law any sole proprietorship whose only employee is the sole proprietor.

*Status: Dead bill, Assembly Committee on Labor and Employment.*

**AB 1551      Kehoe      Biotechnology employment and development**

Sets forth legislative findings and declarations that the San Diego biotechnology industry increasingly needs more biotechnology professionals of all levels that are familiar with industry like conditions for basic, applied, and translational research, training, and production, as provided. This bill would also state legislative findings and declarations that the San Diego Multiuse Biotechnology Training Center is being created to serve as an anchor and catalyst for the growth of biotechnology enterprise in the region, and to address the workforce needs of the biotechnology industry. This bill would additionally authorize various state and local entities, as specified, to enter into memoranda of understanding with the center to provide services, funding, and personnel.

*Status: Chapter # 628, Statutes of 2003.*

**AB 1582      Koretz et al      Abusive work environments**

This bill makes it an unlawful employment practice to subject an employee to an abusive work environment, as defined, and would specify that an employer is vicariously liable for a violation committed by its employee, but would prescribe certain affirmative defenses. The bill would also make it an unlawful employment practice to retaliate against an employee because the employee has opposed an unlawful employment practice under the bill or has made a charge, testified, assisted, or participated in an investigation or proceeding under the bill. The bill would specify that it is enforceable solely by a private right of action.

*Status: Dead bill, Assembly Committee on Labor and Employment.*

**AB 1643      Ridley-Thomas      Contract service providers**

This bill requires the Employment Development Department (EDD) to conduct a study on the number of small business owners that were classified as employees and subsequently found to be independent contractors. The study is to be based on random sampling of data. This bill also requires EDD to develop educational events and materials that explain, in simplified terms, the process EDD uses to determine whether an individual is an employee or an independent contractor.

*Status: Chapter # 828, Statutes of 2004.*

**AB 1688      Goldberg      Car washes**

This bill regulates the industry of car washing and polishing by providing specific record keeping requirements that employers of car washers must implement with regard to car washer wages, hours, and working conditions. The bill would require employers of car washers to register with the Labor Commissioner (LC) and pay a specified registration fee. Failure to register pursuant to these provisions carries a civil fine of \$100 for each calendar day of violation not to exceed \$10,000. These fines and registration fees would be deposited in the Car Wash Worker Restitution Fund and the Car Wash Worker Fund, which this bill would create, for disbursement by the LC, upon appropriation by the Legislature. This bill sunsets on January 1, 2007.

*Status: Chapter # 825, Statutes of 2003.*

**AB 1719      Labor Committee      Employment**

AB 1719 makes a number of changes to existing provisions of the Labor Code. First, this bill makes some follow-up changes to AB 2837 (Koretz) from last session to strengthen reporting and notification requirements concerning workplace accidents. Second, this bill cleans up language contained in the overtime exemption for licenses physicians to make it consistent with other exemption language. Third, this bill allows the California Apprenticeship Council to extend the period for electrician certification for two years, if it decides that it needs additional time. Finally, AB 1719 adds some clarifying language related to a workers' compensation carve-out for licensed jockeys. This language is consistent upon the passage of the workers' compensation reform package.

*Status: Chapter # 884, Statutes of 2003.*

**AB 1722      Labor Committee      Agricultural Labor Relations Board**

This bill requires the Governor to appoint two legal advisors for each member of the Agricultural Labor Relations Board upon recommendation of that members, to serve at the pleasure of the recommending board members and to receive a salary to be fixed by the board with the approval of the Department of Personnel Administration.

*Status: Dead bill, Assembly Labor and Employment Committee.*

**AB 1723      Koretz      Employment**

This bill, sponsored by the United Farm Workers of America, AFL-CIO, requires an agricultural employer with 25 or more employees to provide direct deposit to an employee if the employee makes a written request and provides specified information. This bill also requires the Labor and Workforce Development Agency to develop sample written materials to be used by employees and employers in making and complying with such requests.

*Status: Vetoed by the Governor.*

**AB 1825      Reyes      Sexual Harassment Training**

This bill requires employers with 50 or more employees to provide two hours of sexual harassment training and education to all supervisory employees within one year of January 1, 2005, unless the employer has provided such training and education to employees after January 1, 2003. This bill also requires employers to provide the training and education to each supervisory employee once every two years, after January 1, 2006. Under this bill, the state would incorporate this training into the 80 hours of training it provides to all new supervisory employees. The bill provides that a claim that the training and education did not reach a particular individual does not automatically result in the liability of an employer, and that an employer's compliance with these provisions does not insulate the employer from liability. This bill specifies that employers may provide training and education beyond that required by the statute.

*Status: Chapter # 933, Statutes of 2004.*

**AB 1829      Liu      Public service contracts**

This bill prohibits a state agency or local government, in expending state funds, from contracting for services with a contractor or subcontractor unless that individual certifies that the contract will be performed solely with workers within the United States. This bill authorizes a state agency or local government to waive these requirements, with the consent of the State Controller, if certain conditions are met. Exceptions are also provided for seismic retrofit work performed pursuant to contracts entered into before January 1, 2006, and to agreements entered into by the State Treasurer in connection with the sale of any evidence of indebtedness.

*Status: Vetoed by the Governor.*

**AB 1885      Corbett      Biotech Employment and Development**

This bill sets forth legislative findings and declarations that the East Bay biotechnology industry increasingly needs more biotechnology professionals that are familiar with industry-like conditions for research, training, and production. This bill also states legislative findings and declarations that the East Bay Biotechnology Center will be established on the campus of the Cal State, Hayward and is being created to serve as a catalyst for the growth of biotechnology enterprise in the region, and to address the workforce needs of the biotechnology industry. This bill further authorized various state and local entities to work with the center for the purpose of coordinating services and receiving private sector or federal financial assistance and support.

*Status: Vetoed by Governor.*

**AB 1923      Lowenthal      Critical Incidents: Emergency Response Personnel**

This bill requires employers of emergency response personnel to make counseling services available to those employees who have been exposed to a critical incident in the line of duty. This bill also encourages fire departments to seek federal assistance to aid the departments in making counseling services available to their employees.

*Status: Dead bill, Senate Appropriations Committee.*

**AB 1995      Cox      Prevailing wages: offsite work**

This bill exempts fabrication or prefabrication work performed at permanent offsite facilities from the requirements of prevailing wage law. The bill was introduced in response to two 2003 decision issued by the Department of Industrial Relations (DIR) addressing this issue and setting forth a test for coverage by prevailing wage laws. Those two decisions were subsequently rescinded by DIR.

*Status: Dead bill, Assembly Committee on Labor and Employment.*

**AB 2028      Koretz      WARN Act**

This bill, a follow-up measure to AB 2957 (Koretz) of 2002, adds language to the Unemployment Insurance Code to clarify that payments received under either the federal WARN Act or the state law version may not be construed as wages or compensation for personal services for purposes of determining eligibility for unemployment compensation benefits. This bill was heard by the Assembly Insurance Committee.

*Status: Chapter # 776, Statutes of 2004.*

**AB 2052      Haynes      Employment**

This bill makes a number of changes to various sections of the Labor Code related to employment and union-employee relations. Among the major provisions of this bill are the following: (1) elimination of the requirement that the headquarters of the Division of Labor Standards Enforcement be located in San Francisco; (2) a requirement that employers notify employees when deductions are made from their paychecks to be used for political purposes; (3) a prohibition on any person from coercing an employee to join or become a member of a labor organization as a condition of employment; and (4) a prohibition on labor unions from controlling the political activities or affiliations of employees.

*Status: Dead bill, Assembly Committee on Labor and Employment.*

**AB 2124      Campbell      Public contracts: foreign-made products**

This bill eliminates the provisions of SB 578 (Alarcon), Chapter # 711, Statutes of 2003, which, among other things, prohibited a state agency from contracting with a contractor or subcontractor that utilizes sweatshop labor or fails to satisfy an enumerated "Sweatfree Code of Conduct" regarding terms and conditions of employment.

*Status: Dead bill, Assembly Committee on Labor and Employment.*

**AB 2181      Campbell      Employment**

This bill repeals the "Labor Code Private Attorneys General Act of 2004," enacted pursuant to SB 796 (Dunn), Chapter # 906, Statutes of 2003.

*Status: Dead bill, Assembly Committee on Labor and Employment.*

**AB 2213      Goldberg      Janitorial Service Contractors**

This bill, until January 1, 2010, regulates the janitorial service industry by providing specific recordkeeping requirements that employers of janitors must implement with regard to janitorial wages, hours, and working conditions. The bill also requires employers of janitors to register with the Labor Commissioner and pay a specified registration fee. Failure to register pursuant to these provisions would subject the employer to a civil fine of \$100 for each calendar day of violation, not to exceed \$10,000. These fines and registration fees would be deposited in the Janitorial Worker Restitution Fund and the Janitorial Registration Fund, which this bill would create, for disbursement by the commissioner, upon appropriation by the Legislature.

*Status: Vetoed by the Governor.*

**AB 2276      Dymally      Horse racing: backstretch workers**

This bill provides that every employer of backstretch workers shall, upon request, submit in writing or electronically to the administrator of the welfare program for backstretch workers any employment records necessary to prompt payment of benefits and proper administration of the program.

*Status: Chapter # 99, Statutes of 2004.*

**AB 2317      Oropeza      Gender Pay Equity**

This bill increases the damages due to employees paid unfairly based on gender to an amount equal to the balance of wages as liquidated damages, and an amount equal to double the balance of the wages as a civil penalty. If it is determined that the employer willfully violated this bill, the employee shall recover the balance of the wages, including interest, an equal amount as liquidated damages, and an amount equal to four times the balance of the wages as a civil penalty.

*Status: Vetoed by the Governor.*

**AB 2350      Chavez      Safety in employment: conveyances**

Makes technical changes to existing laws governing elevators, escalators and other conveyances, and deletes a disclosure requirement for permits to install, construct, or alter any conveyance.

*Status: Chapter # 503, Statutes of 2004.*

**AB 2402      Lieber      Employment: day laborers**

This bill creates the Day Laborer Fairness and Protection Act, sets forth findings and declarations of the Legislature, and states that legislation is necessary to ensure that individuals working as day laborers or temporary workers are afforded the full protection of employment and labor laws that ensure workplace dignity, and to reduce unfair competitive advantage from firms that abuse day laborers.

*Status: Dead bill, Assembly Appropriations Committee.*

**AB 2449      Diaz      State contracts**

This bill requires any vendor awarded a state contract for services in excess of \$100,000 to disclose an estimate of any and all portions of the project that will be performed by subcontractors or employees located outside of the United States.

*Status: Dead bill, Assembly floor.*

**AB 2532      Hancock      Hospitals: lift teams**

This bill requires general acute care hospitals, as part of their injury and illness prevention programs required by existing law, to conduct a needs assessment to identify patients that require the appropriate use of lift teams and lifting devices. Hospitals are required to implement "zero lift policies" for all shifts for patients identified pursuant to the needs assessment. A "zero lift policy" involves replacing the manual lifting and transferring of patients with powered patient transfer devices, lifting devices or lift teams.

*Status: Vetoed by the Governor.*

**AB 2545      Koretz      Access to exits**

This bill requires that, beginning January 1, 2006, any employer who establishes any rule or engages in any practice that results in a serious and willful violation of any regulation regarding the maintenance and access to exits, that results in death or serious bodily injury of an employee, be assessed a penalty of ten times the applicable civil penalty.

*Status: Vetoed by the Governor.*

**AB 2604      Pacheco      Personnel records**

This bill prohibits employers from charging a fee to provide a reference on behalf of a current or former employee to a prospective employer.

*Status: Dead bill, Senate Committee on Labor and Industrial Relations.*

**AB 2650      Bates      Private Attorneys General Act of 2004**

This bill exempts employers with fewer than 100 employees from the civil action provisions of the Labor Code Private Attorneys General Act of 2004, enacted pursuant to SB 796 (Dunn), Chapter # 906, Statutes of 2003. This bill provides that only the Labor and Workforce Development Agency may investigate, cite or prosecute a violation of the Labor Code against employers with fewer than 100 employees.

*Status: Dead bill, Assembly Committee on Labor and Employment.*

**AB 2684      Lieber      Employment services: verification requirements**

This bill exempts charitable organizations offering employment services from the requirement to verify an individual's legal status or authorization to work prior to providing services. Currently, employment services offered by school districts under secondary school and adult education programs enjoyed this exemption.

*Status: Vetoed by the Governor.*

**AB 2690      Hancock      Public works: volunteers**

This bill exempts volunteers and volunteer coordinators from the provisions of prevailing wage law. A "volunteer" is defined as an individual who performs work for civic, charitable, or humanitarian reasons for a public agency or 501(c)(3) tax-exempt organization without promise, expectation, or receipt of any compensation for work performed. This bill also provides that the provisions of prevailing wage law do not apply to work performed by members of the California Conservation Corps or a certified Community Conservation Corps. The bill contains a 2009 sunset date.

*Status: Chapter # 330, Statutes of 2004.*



**AB 2695      Plescia      Employers: paychecks**

This bill authorizes an employer to withhold a prorated portion of an employee's final wages if a written contract exists between the employer and the employee to provide the employee tuition reimbursement, relocation funds, or a signing bonus as a condition of the employee's employment for a specified period.

*Status: Dead bill, Assembly Committee on Labor and Employment.*

**AB 2704      Berg      Employment: domestic workers**

This bill modifies existing disclosure requirements for employment agencies referring domestic workers in order to make the customer better informed about potential obligations as an employer of the domestic worker. This bill also requires that payments made for domestic services be paid directly to the domestic worker rather than to his or her employment agency via a "trust account" methodology authorized under existing law.

*Status: Dead bill, Senate Committee on Appropriations.*

**AB 2832      Lieber      Minimum wage**

This bill raises the minimum wage, currently at \$6.75 per hour, to \$7.25 as of July 1, 2005, and \$7.75 as of July 1, 2006.

*Status: Vetoed by the Governor.*

**AB 2837      Firebaugh      Apprenticeship programs**

This bill conditions eligibility for reimbursement for apprenticeship programs in the building and construction trades on the program having graduated at least one apprentice in the proceeding two years, among other requirements. In addition, at least one new apprentice must have registered in the program within the prior year. This bill also requires apprenticeship programs to submit specified program information to the Division of Apprenticeship Standards on a semi-annual basis.

*Status: Vetoed by the Governor.*

**AB 2850      Ridley-Thomas      Displaced private security officers**

This bill requires contractors and subcontractors who are awarded contracts or subcontracts to provide private security services at a particular job site or sites, to retain, for a period of 90 days, certain employees who were employed at that site by the previous contractor or subcontractor. This bill requires that employees retained under the bill's provisions for that 90-day period be offered continued employment if their performance during that 90-day period is satisfactory. This bill only applies to contracts entered into on or after January 1, 2005. This bill authorizes an employee who was not retained in accordance with the bill's provisions, or his or her agent, to bring an enforcement action in a court of competent jurisdiction, as specified. This bill authorizes local government agencies to enact ordinances imposing stricter standards or additional enforcement provisions.

*Status: Vetoed by the Governor.*

**AB 2870      Mullin      Fair Employment and Housing Act**

This bill, sponsored by the Fair Employment and Housing Commission, makes a number of technical and conforming changes to the provisions of the Fair Employment and Housing Act.  
*Status: Chapter # 647, Statutes of 2004.*

**AB 2889      Laird      Employment Discrimination**

This bill makes employers responsible for the acts of non-employees with respect to all forms of harassment in the workplace where the employer or its agents or supervisors knew or should have known of the conduct and failed to take immediate and appropriate corrective action.  
*Status: Dead bill, Senate Appropriations Committee*

**AB 2891      Frommer      Professional Employer Organizations (PEOs)**

This bill states the intent of the Legislature that professional employer organizations (PEOs) be properly recognized and regulated.  
*Status: The labor provisions were subsequently amended out of this bill.*

**AB 2900      Laird      Employment Discrimination**

This bill amends various existing provisions of law prohibiting discrimination in employment to prohibit discrimination on the same bases as in the Fair Employment and Housing Act. Those bases are race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation.  
*Status: Chapter # 788, Statutes of 2004.*

**AB 3018      Koretz      Meal Periods; Final Compensation**

This bill creates more flexibility for certain union employers in the structuring of meal periods and in the payment of final wages. First, this bill provides that, in the transportation industry, the parties to a valid collective bargaining agreement may establish (1) an off-duty meal period that commences after no more than six hours, and (2) the circumstances under which employee drivers may qualify for an on-duty meal period. This bill also provides that, in the live theatrical and concert entertainment industry, the parties to a valid collective bargaining agreement may establish the time periods for payment of wages due to an employee who is discharged or laid off.  
*Status: Vetoed by the Governor.*

**AB 3020      Labor Committee      Joint Strike Force of the Underground Economy**

This bill eliminates the January 1, 2006 repeal of the Joint Enforcement Strike Force on the Underground Economy, and extends the repeal and operational dates of Labor Code sections related to the review of a civil wage and penalty assessments against affected contractors and subcontractors.  
*Status: Chapter # 685, Statutes of 2004.*

**AB 3021      Labor Committee      Offshoring: Payroll Reports**

This bill requires employers with 250 or more employees to annually report the number of employees and independent contractors maintained in California, other states, and in other countries. This information would be provided to the Legislature and posted on the Employment Development Department's website.

*Status: Vetoed by the Governor.*

**AB 3037      Yee      Occupational Safety and Health**

This bill requires employers with 50 or more employees to utilize a joint employer-employee occupational safety and health committee as part of their injury and illness prevention programs. Smaller employers would be required to have at least one employee and one employer representative as a safety liaison team. Where an employer's program meets specified criteria, the employer would be entitled to a five percent discount on workers' compensation premiums.

*Status: Died on Assembly Inactive File.*

**ACR 49      Cox      Legislation affecting business**

This resolution requests that members of the Legislature refrain from proposing legislation that hinders or restricts California businesses from operating or employing Californians in California, in an effort to make California more economically competitive. ACR 49 also makes legislative findings concerning the business climate in California.

*Status: Dead resolution, Assembly Committee on Labor and Employment.*

**ACR 213      Wiggins      Filipino Farm Workers**

Recognizes the considerable contributions made by Filipino labor leaders and farmworkers to the farmworker movement over the past 80 years in California and the United States.

*Status: Resolution Chapter 159 of 2004.*

**AJR 39      Koretz/Mullin      Workplace safety and health**

This resolution makes declarations regarding federal enforcement of workplace health and safety laws and urges the President and Congress to strengthen protections for workers and improve coordination of enforcement activities.

*Status: Dead resolution, Assembly Committee on Labor and Employment.*

**AJR 66      Lieber      Equal pay day**

This resolution proclaims April 20, 2004, as Equal Pay Day, and urges the Congress of the United States to protect the fundamental right of all American women to receive equal pay for equal work and to continue to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex.

*Status: Resolution Chapter 38 of 2004*

**AJR 87      Goldberg      Employee Free Choice Act**

This resolution urges Congress to pass the Employee Free Choice Act, and makes legislative findings concerning the state of the nation's federal labor laws.

*Status: Resolution Chapter 147 of 2004.*

**AJR 91      Chan      Trade assistance for service workers**

This resolution memorializes the Congress and the President of the United States to extend the trade adjustment assistance program, which provides assistance during extended periods of unemployment to workers who lose their jobs as a result of increased imports, to services workers.

*Status: Resolution Chapter 163 of 2004.*

**SB 9                    McClintock    State Employees' Retirement**

This bill would have repealed provisions of SB 183 (Burton), Chapter # 56, Statutes of 2002, that provided enhanced retirement benefits for members of State Bargaining Unit 7 beginning on July 1, 2004.

*Status: Dead bill, Assembly Committee on Labor and Employment.*

**SB 75                    Burton            Agricultural labor relations**

SB 75 amends provisions of existing law relating to mandatory retaliation and conciliation procedures for agricultural workers and employers. This bill eliminates the January 1, 2008 sunset date and provides that the 75 caseload limit applies only until January 1, 2008. In addition, this bill specifies the factors a mediator is allowed to consider when resolving disputes between an agricultural employer and a labor organization. SB 75 also authorizes the Agricultural Labor Relations Board to review a mediator's decision if a provision of the collective bargaining agreement set forth in that decision is arbitrary or capricious in light of the mediator's finding of fact.

*Status: Chapter # 870, Statutes of 2003.*

**SB 158                  Alarcón           Displaced public transit employees**

This bill establishes a 10% bidding preference for public transit service contractors and subcontractors who agree to retain employees of the previous contractor for at least 90 days. However, the new contractor/subcontractor is authorized to pay alternate wages and provide alternate benefits. In addition, this bill authorizes the new contractor/subcontractor to retain fewer employees than the previous contractor, if necessary. SB 158 authorizes employees discharged in violation of the provisions of this bill to bring suit to recover reinstatement, back pay, benefits and attorney's fees and costs. In addition, a awarding body is required to terminate contract that has been substantially breached and that contractor is ineligible to bid or be awarded a contract for between one and three years, to be determined by the awarding body.

*Status: Chapter # 103, Statutes of 2003.*

**SB 179                  Alarcón           Contracts for labor or services**

Provides that any person or entity that enters into certain contracts for labor or services, that knows or should know that the contract does not provide sufficient funds to comply with various laws, violates state law. The bill establishes a rebuttable presumption that a person or entity entering into such a contract for labor or services does not violate this bill's provisions if the labor contract or any material change to the labor contract is in writing, contained in a single document and meets certain requirements.

*Status: Chapter # 908, Statutes of 2003.*

**SB 197          Burton          Registered nurses: meal and rest periods: fines**

This bill subjects for-profit general acute care hospitals to treble civil penalties for violating meal or rest period requirements for registered nurses. Current law establishes a civil penalty of \$50 for the first violation and \$100 for subsequent violations.

*Status: Died on Assembly Inactive File.*

**SB 360          Romero          Public works: prevailing wages: exclusions**

This bill extends the exemption deadline for certain residential and low income housing projects from the provisions of prevailing wage law. SB 975 (Alarcón) from last session exempted qualified residential projects, low-income housing projects and single family residential projects financed before December 31, 2003. This bill would extend those deadlines until December 31, 2004.

*Status: Dead bill, Assembly Committee on Labor and Employment.*

**SB 478          Dunn          Victims of crime: work absences for judicial proceedings**

This bill requires that an employer allow an employee who is a victim of a crime, as defined, or certain persons who are related to a crime victim, to be absent from work in order to attend judicial proceedings related to the crime. This bill would prohibit an employer from discharging or in any manner discriminating against an employee, in compensation or other terms, conditions, or privileges of employment, including, but not limited to the loss of seniority or precedence, because the employee is absent from work pursuant to this bill, and would authorize the employee to file a complaint with the Division of Labor Standards Enforcement.

*Status: Chapter # 630, Statutes of 2003.*

**SB 534          Romero          Farmworker hand weeding**

SB 534, sponsored by the California Rural Legal Assistance Foundation and others, would require the provision and use of long-handled tools for weeding, thinning and hot-capping in agricultural operations. This bill would prevent the current practice of agricultural workers weeding without tools in stooping, kneeling or squatting positions. The use of short-handled hoes in agriculture was banned over 25 years ago. Unfortunately, some agricultural employers circumvent this prohibition by requiring their employees to weed without tools. This bill contains several exemptions, including where an employer can demonstrate that significant damage would result to the crops without the use of hand weeding. The provisions of the bill prohibiting hand weeding also would not apply to organic growers until January 1, 2006.

*Status: Died on Assembly Inactive File.*

**SB 578            Alarcón            Public contracts: sweatshop labor**

This bill prohibits a state agency from contracting with a contractor or subcontractor that utilizes sweatshop labor or fails to satisfy an enumerated "Sweatfree Code of Conduct" regarding terms and conditions of employment. SB 578 builds on existing law which prohibits the state from contracting for foreign-made goods produced by forced labor, convict labor, child labor and other abusive practices. However, this bill extends such prohibitions and new requirements to domestic-made goods and the procurement or laundering of apparel, garments and corresponding accessories. SB 578 also requires the state to explore feasible and cost-effective monitoring measures to ensure compliance with its provisions.

*Status: Chapter # 711, Statutes of 2003.*

**SB 730            Burton            Prevailing rate of per diem wages: determinations.**

This bill provides specified time periods relating to the determination and appeal of prevailing wage rate and coverage determinations. Specifically, this bill requires the Director of the Department of Industrial Relations (DIR) to provide prevailing wage rates to an awarding body within 120 days of a request for the rates, and would require that any appeal of a wage rate determination be decided within 30 days. It also requires the Director of DIR to make determinations regarding whether a project is a public work under applicable law within 60 days of a request, and would require that any appeal of a coverage determination be decided within 30 days. The Director of DIR, under this legislation, is required to maintain a log, as a public record, of the determination requests and appeals.

*Status: The labor provisions were subsequently amended out of this bill.*

**SB 796            Dunn            Civil penalties: private right-of-action**

SB 796 enacts the "Labor Code Private Attorneys General Act of 2004." This bill establishes a civil penalty where one is not specifically provided under the Labor Code of \$100 for each aggrieved employee per pay period for an initial violation, and \$200 for subsequent violations. SB 796 also authorizes aggrieved employees to file civil actions to recover civil penalties under the Labor Code. Any civil penalties recovered in such a manner shall be distributed as follows: 50% to the General Fund, 25% to the Labor and Workforce Development Agency, and 25% to the aggrieved employee(s). This bill provides that no private action may be maintained where the Labor Agency or one of its subdivision cites the alleged violator or initiates proceedings against that alleged violator. SB 796 specifies that where the Labor Agency has discretion to assess civil penalties, a court may exercise the same discretion with respect to those penalties. Finally, this bill provides for the award of reasonable attorney's fees and costs to an aggrieved employee who prevails in such an action.

*Status: Chapter # 906, Statutes of 2003.*

**SB 817          Ducheny          Employment Training Panel**

This bill expands the types of projects that are entitled to receive funding priority from the Employment Training Panel to include those projects that promote, through eligible nonprofit organizations, the training of nursing health care professionals who are required to be licensed or certified by the state, including registered nurses, licensed vocational nurses, certified nurse assistants, and licensed psychiatric technicians.

*Status: Dead bill, Assembly Committee on Labor and Employment*

**SB 818          Escutia          Trial courts: interpreters**

This bill makes technical changes to the Trial Court Interpreter Employment and Labor Relations Act (TCIELRA), which was enacted in 2002, and revises a number of the implementation dates set forth in that act.

*Status: Chapter # 257, Statutes of 2003.*

**SB 868          Dunn          Prevailing wages**

This bill revises the definition of per diem wages so that those wages shall be deemed to include the following: 1) Employer payments for worker protection and assistance programs or joint labor-management committees established pursuant to federal law, to the extent that the activities are directed to the monitoring and enforcement of laws related to public works; 2) Employer payments for industry advancement and collective bargaining agreements administrative fees, provided that these payments are required by a collective bargaining agreement pertaining to the craft, classification, or type of work within the locality or the nearest labor market area at issue; and, 3) Employer payments for purposes similar to those included in the definition of per diem wages.

*Status: Chapter # 905, Statutes of 2003.*

**SB 888          Dunn          Employment: homeland security**

This bill prohibits the performance of any work involving information that is essential to homeland security at a work site outside of the United States. The bill defines "information essential to homeland security" as either (1) information necessary to enhance the capability of state and local jurisdictions to prepare for and respond to terrorist acts, including, but not limited to, acts of terrorism involving weapons of mass destruction and nuclear, radiological, incendiary, chemical, and explosive devices, or (2) information relating to physical and information infrastructures, including, but not limited to, the telecommunications, energy, water and transportation sectors.

*Status: Vetoed by the Governor.*



**SB 966      Alarcón      Public works and prevailing wages: contractors' costs**

This bill authorizes a contractor to recover increased costs related to public works contracts under specified circumstances. Under SB 966, a contractor may recover specified costs from an awarding body where that body either represented in writing that a project was not a public work or received actual written notice from the Department of Industrial Relations that the project was a public work but failed to disclose that fact. In addition, a contractor may recover increased costs from an awarding body or body undertaking a public work where the body failed to identify a project as a public work and a decision classifies it as such. Under this bill, the body may avoid liability if (1) the contractor did not directly contract with that body, (2) the body stated in writing that the work was a public work, (3) the body obliged the party with whom the written agreement was made to cause the work to be performed as a public work, and (4) the body fulfilled its statutory obligations, if any, to cause a payment bond to be obtained and maintained.

*Status: Chapter # 804, Statutes of 2003.*

**SB 1134      Chesbro      Employment of minors: agricultural packing plants**

This bill extends until 2008 the provision of existing law, which authorizes the Labor Commissioner to permit agricultural packing plants in Lake County to employ minors up to 60 hours per week.

*Status: Chapter # 151, Statutes of 2004.*

**SB 1453      Figueroa      Offshoring**

This bill requires an employer that is required to provide notice of any mass layoff, relocation, or termination under the state law version of the Workers Adjustment and Retraining Notification (WARN) Act to include in its notice to the Employment Development Department the number of employees laid off, relocated or terminated as a result of offshoring, as defined.

*Status: Dead bill, Assembly Committee on Appropriations.*

**SB 1499      Murray      Employment: compensation**

This bill requires any employer who cashes, or uses an agent to cash, an employee's paycheck or other negotiable instrument, as provided in existing law, to do so without discount. This bill also requires that a specified list of employees' rights and responsibilities under existing whistleblower laws be in lettering no smaller than 14-point font size, instead of the current size of 14 pica type.

*Status: Vetoed by the Governor.*

**SB 1511      Alpert      Restaurant tipping**

This bill requires the Industrial Welfare Commission (IWC) to conduct a review of tip pooling practices in the restaurant industry, and authorizes the IWC to adopt regulations authorizing the pooling of gratuities with employees who do not provide direct table service, other than the owners, managers or supervisors of the restaurant.

*Status: Dead bill, Assembly Committee on Labor and Employment.*

**SB 1521      Alarcón      Displaced Janitor Opportunity Act**

This bill would extend the 60-day period to 90 days for purposes of these provisions. If a service contract is terminated as a result of a change in property ownership, the sale of a building, or a change in the awarding authority, the bill would provide that the above-described retention requirements, and related notice requirements, apply to the new property owner or awarding authority. The bill would make other clarifying changes.

*Status: Vetoed by the Governor.*

**SB 1538      Alarcón      Piece rate workers**

This bill clarifies that piece rate workers are entitled to payment for rest periods and provides a formula for determining the compensation rate for rest periods for piece rate workers in the agricultural and garment industries.

*Status: Vetoed by the Governor.*

**SB 1618      Battin      Employee compensation**

This bill requires employers, by January 1, 2008, to only provide the last four digits or less of an employees social security number along with the employees name and other required information on the itemized statement furnished at the time of each payment of wages to an employee. This bill allows an employee identification number to be used in lieu of a social security number on the itemized statement.

*Status: Chapter # 860, Statutes of 2004.*

**SB 1687      Murray      Advance-fee talent services**

This bill revises the definition of advance-fee talent service to include a person who charges, attempts to charge, or receives an advance fee from an artist for specified services, or for the purchase of any other product or service, including, but not limited to, creating or providing photographs or providing lessons, coaching, or similar training, in order to obtain from or through the advance-fee talent service one or more of the specified services. This bill expands the list of services specified for purposes of this new definition to include procuring, offering, promising, or attempting to procure auditions for the artist.

*Status: Chapter # 288, Statutes of 2004.*

**SB 1809      Dunn      Private Attorneys General Act of 2004**

This bill makes significant changes to the "Labor Code Private Attorneys General Act of 2004," enacted pursuant to SB 796 (Dunn), Chapter # 906, Statutes of 2004. This bill enumerates certain provisions of the Labor Code for which the employee must give notice to the employer and the Labor and Workforce Development Agency before proceeding with a civil action. This bill sets forth a "notice and cure" system for non-enumerated sections of the Labor Code in which employers will be notified of alleged violation and provided an opportunity to correct it before any civil action may commence. This bill also authorizes a court to award less than the full amount of civil penalties if to do otherwise would result in an award that is "unjust, arbitrary and oppressive, or confiscatory." This bill also provides that no civil action may be brought for any posting, notice, agency reporting, or filing requirement (except those involving mandatory payroll or workplace injury reporting). Finally, the bill requires the superior court to review and approve any penalties sought as part of a proposed settlement agreement.

*Status: Chapter # 221, Statutes of 2004.*

**SB 1841      Bowen      Electronic monitoring of employees**

This bill prohibits employers from engaging in electronic monitoring of employees without first providing notice to the employees, except in certain specified circumstances.

*Status: Vetoed by the Governor.*

**SB 1901      Alarcon      Safety in employment: grape testing**

This bill prohibits employers from requiring harvesting employees to taste or consume unwashed grapes in the field or prior to processing, except in limited circumstances and under certain conditions. The bill also imposes a minimum civil penalty in the amount of \$500 per employee, per violation, in an initial citation and \$1,000 per employee, per violation, in any subsequent citation. The civil penalties provided for in this bill are in addition to any other penalty provided by law.

*Status: Vetoed by the Governor.*

**SCR 20      Burton      Immigrant Workers' Freedom Ride**

This resolution makes various declarations related to the immigrant population in California and the United States and urges the Legislature to endorse and support the Immigrant Workers' Freedom Ride. The Freedom Ride is a coalition effort of labor and civil rights advocates to promote humane immigration law reform.

*Status: Resolution Chapter # 125, Statutes of 2003.*

## Miscellaneous

Additional important bills not heard by the Assembly Committee on Labor and Employment include the following:

**AB 606      Nuñez      Humane Treatment of Hotel Room Attendants Act of 2004**

This bill requires employers of hotel room attendants to provide a paid 15-minute rest period for every four hours of work. In addition, this bill requires employers of hotel room attendants to make available a temperature-controlled room on premises with adequate seating and tables, and a source of potable drinking water. An employer who violates these provisions would be liable to the employee for a civil penalty equal to three times the employee's regular hourly rate of pay for each day that the rest period was not provided.

*Status: Vetoed by the Governor.*

## **Governor's Vetoes**

### **AB 274 (Koretz)**

I am returning Assembly Bill 274 without my signature.

This bill would create a rebuttable presumption that a person's action to discharge, demote, suspend, or reduce the hours of an employee is retaliatory if it occurs within 60 days after the employee has exercised any rights enumerated under the Labor Code.

This bill could allow any employee who suspects the possibility of an adverse action to stall that action by fabricating a complaint. It would also make it difficult for a supervisor to legitimately discipline a problem employee who has exercised any right given under the Labor Code. This bill would create a burden on employers who would constantly have to defend any disciplinary action taken. Lastly, AB 274 has the potential to pre-empt a collective bargaining agreement's grievance procedures, and could interfere with the ability for the parties to negotiate a settlement.

This bill is similar to AB 2990 which I vetoed last session. While this bill attempts to address the concerns of AB 2990, it still conflicts with the presumption of innocence until proven guilty.

Sincerely,

Gray Davis

### **AB 446 (Mathews)**

I am returning Assembly Bill 446 without my signature.

As I have emphasized in the past, this Administration strongly believes that State employees should be paid on a timely basis, and we have worked diligently with the State Controller to accomplish that.

Last year I vetoed SB 360, which is nearly identical to this bill. Similarly, this bill is not needed because the Federal Fair Labor Standards Act already provides for the payment of wages, including overtime, prior to the close of the next subsequent pay period. The State is also subject to Labor Code Section 207, which requires regular pay days.

Additionally, according to the Department of Finance, the provisions of this bill would result in increased workload and undetermined costs to the State Controller, resulting from the necessary revamping of the payroll system. At a time when the State is operating with limited staff resources and striving to further reduce State expenditures, this bill is unnecessary.

Sincerely,

Gray Davis

**AB 643 (Mullin)**

I am returning Assembly Bill 643 without my signature.

This bill would allow the legislature to make appointments to the Occupational Safety and Health Standards Board in the event that a vacancy exists for more than 60 days.

I am vetoing this bill because it would interfere with the separation of powers between the executive and legislative branches of the government.

Sincerely,

Gray Davis

**AB 1093 (Lieber)**

I am returning Assembly Bill 1093 without my signature.

This bill would enact the California Living Wage Act, which will require the State of California, and any employer that contracts with the state, to pay a living wage to its employees.

Although I support the concept of higher wages for workers, this bill would:

- Result in increased General Fund costs that are not included in the Budget Act of 2003;
- Increase contracting costs for all state departments at a time when they can least afford it;
- Reduce competition for state contracts, thereby driving up costs and limiting the types of solutions available to state agencies;
- Raise policy concerns about the appropriateness of paying a living wage to high school and college students, who work part time for the state and who are presumably not independent wage earners;
- In addition, it is not clear which state entity, the Department of Finance or the Department of Industrial Relations, would be responsible for adjusting the wage annually, nor under what circumstances the CCPI would be discarded in favor of an "adequate living wage standard" as determined by DIR.

In light of the State's current economic condition, I am hesitant to sign this measure at this time and would hope the next Administrations reconsider this proposal in better economic times.

Sincerely,

Gray Davis

**AB 1133 (Koretz)**

I am returning Assembly Bill 1133 without my signature.

This bill provides that if a judgment for unpaid wages or penalties remains unsatisfied for 6 months after the judgment becomes final, a penalty equal to the amount of the judgment is applied. This penalty is then applied every 6 months the judgment remains unsatisfied, up to a maximum of 4 times.

This bill is intended to encourage employers to promptly satisfy judgments entered against them by the Labor Commissioners Office. However, existing law already provides that interest on judgments accrues at a rate of 10 percent per annum on the principal amount of a judgment, which remains unsatisfied.

I applaud the author for his efforts to ensure prompt payment of unpaid wages and any associated penalties. While the current 10 percent per annum rate on a judgment may not be a sufficient penalty, potentially doubling a judgment 240 percent in a two-year period is excessive. I encourage the Legislature to find a more appropriate penalty scheme.

For these reasons, I am unable to sign this bill.

Sincerely,

Gray Davis

**AB 1723 (Koretz)**

I am returning Assembly Bill 1723 without my signature.

By mandating employee benefits that are normally considered optional, this bill would establish a troubling precedent at a time when California should be looking to reduce mandates on employers in an effort to keep existing businesses in the state and encourage others to return. Offering direct deposit to an employee should be between the employer and the employee.

For this reason, I cannot sign this bill.

Sincerely,

Arnold Schwarzenegger

**AB 1885 (Corbett)**

I am returning Assembly Bill 1885 without my signature.

Although this measure correctly notes that biotechnology represents one of the most promising growth industries of this era and that industry-oriented bioscience training to address the workforce needs of the industry in the East Bay region is a laudable goal, legislation is not needed to create the East Bay Biotechnology Center at California State University, Hayward.

I encourage the California State University system, as well as other educational institutions, to work with the industry as well as the appropriate governmental agencies to address the workforce needs of this growing industry.

Sincerely,

Arnold Schwarzenegger

**AB 2213 (Goldberg)**

I am returning Assembly Bill 2213 without my signature.

This bill would require janitorial contracting businesses to register with the Labor Commissioner. California law contains extensive protections for workers, including some specifically designed to protect workers in the janitorial contracting industry. These workers do not need additional laws to protect them, but instead need existing laws to be fully enforced. The Labor and Workforce Development Agency, using its authority under existing law, was recently able to secure back wages for janitorial workers in excess of \$1.5 million.

As we work to make California a better place in which to do business, we should not establish new barriers that prevent employers from expanding their operations. This bill would also make successor contractors liable for wages and penalties owed by the previous contractor. The requirement that a successor contractor be held liable for the violations of the previous contractor will only serve to dissuade good employers from taking over business from those employers who choose to break the law. This does nothing to help those working for the unlawful employer, but merely keeps the good employer from expanding operations.

For these reasons, I am unable to sign this measure.

Sincerely,

Arnold Schwarzenegger



**AB 2317 (Oropeza)**

I am returning Assembly Bill 2317 without my signature.

While I am supportive of reasonable efforts to eradicate the historical trend of women earning less than men for doing the same work, I do not believe the provisions of AB 2317 are necessary in order to achieve this goal.

Current state and federal laws forbid and provide civil and criminal penalties for an employer that pays discriminatory wage rates to employees on account of gender. The civil penalty for violation of the equal pay requirement was doubled just last year. In addition, SB 1809, which I recently signed into law, classifies the violation of equal pay requirements as one of the more serious labor law violations for which an employee can bring a private civil action. We need to allow these new laws time to work before considering additional penalties.

For these reasons I am unable to sign this measure.

Sincerely,

Arnold Schwarzenegger

**AB 2532 (Hancock)**

I am returning Assembly Bill 2532 without my signature.

A number of well-intentioned mandates have been placed upon California hospitals in recent years, including nurse-to-patient staffing ratios and seismic retrofit requirements. Hospitals will be spending billions of dollars in the coming years in order to comply with these mandates. As such, I believe we must carefully weigh additional mandates on hospitals in order to ensure the financial burden does not become too great or interfere with their ability to offer quality health care.

Because I am concerned about the financial burden hospitals are already under, I cannot support the costly mandate imposed on them by AB 2532. Although the goal of having all hospitals implement a standardized lift policy that includes lift teams and modern equipment is laudable, it need not be mandated in statute. Procedures to limit injuries caused by the lifting patients should already be a part of a hospitals mandatory Injury and Illness Prevention Program (IIPP). If an individual believes a hospitals IIPP is insufficient, they may file a claim with the Division of Occupational Safety and Health. I believe this existing statutory protection and the accompanying workplace safety standards adopted by the Occupational Safety and Health Standards Board are sufficient to protect health care workers from injury.

Although I cannot support AB 2532, I encourage hospitals to review their lift policies to determine the extent to which they can develop lift teams and purchase machinery to assist in lifting patients. I also encourage hospitals to consider incorporating modern lift technologies into new construction and significant renovation projects, including their seismic retrofit activities.

For these reasons I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger

**AB 2545 (Koretz)**

I am returning AB 2545 without my signature.

Strong workplace safety laws are a necessary and vital component of a positive business environment in California. More importantly, workplace safety laws must be adequately enforced. That is why the budget I signed in July made no cuts to labor and workplace safety law enforcement. Workers must feel confident that their places of work are safe.

California law already provides for the assessment of large penalties against employers who willfully violate workplace safety laws. In fact, criminal penalties for willful violations of such laws were significantly raised in 2000. These penalties, buttressed by a commitment to the enforcement of workplace safety laws, help ensure a safe working environment for working Californians without creating a business environment that drives businesses from our state.

Given the recent criminal penalty increases, as well as the commitment of the Labor and Workforce Development Agency to enforce California labor law, I see no reason to support additional civil penalty increases for one particular workplace safety violation.

Sincerely,

Arnold Schwarzenegger

**AB 2684 (Lieber)**

I am returning Assembly Bill 2684 without my signature.

Charitable organizations provide a variety of critical services to individuals in their communities and usually do so with very limited funds. I commend all the charitable organizations that provide training and other services to clients facing employment barriers. I appreciate the authors desire to limit burdensome administrative requirements imposed on charitable organizations.

This bill would exempt charitable organizations contracting with a state or local agency to provide employment services from the requirement that they verify an individuals legal right to work in this country. While requiring charitable organizations to check an individuals right to work status may be viewed as an administrative burden, it is a necessary requirement to ensure limited public funds are spent to train individuals who can legally obtain employment in California.

This is particularly true for charitable organizations using federal Workforce Investment Act funds, which, under federal law, can only be used to train workers who have the right to work in the United States.

Sincerely,

Arnold Schwarzenegger

**AB 2832 (Lieber)**

I am returning Assembly Bill 2832 without my signature.

This bill would raise Californias minimum wage to a level that would be the highest in the nation. According to the Employment Development Department, this will increase the costs to California employers by at least \$3 billion, and as much as \$4.4 billion.

In recent years, the high cost of doing business in California has driven away jobs, businesses, and opportunity. We have launched Californias recovery by making our state a more attractive place to do business, so that employers will stay in our state, expand in our state, and create more jobs here.

Now is not the time to create barriers to our economic recovery or reverse the momentum we have generated. I want to create more jobs and make every California job more secure.

For these reasons, I am unable to support this measure.

Sincerely,

Arnold Schwarzenegger

**AB 2837 (Firebaugh)**

I am returning Assembly Bill 2837 without my signature.

This bill is unnecessary. The Labor & Workforce Development Agency and Division of Apprenticeship Standards has recently created a Quality Standards Committee, composed of both union and non-union apprenticeship program sponsors, to work with interested parties on the development of apprenticeship standards. Furthermore, requiring the withholding of reimbursements to apprenticeship programs for supplemental instruction may have the adverse effect on programs in migratory trades, slow-growth trades and highly technical or dangerous trades.

All apprenticeship programs already undergo an approval and oversight process through the Division of Apprenticeship Standards that is responsible for ensuring that these programs function effectively. Students or others who are concerned about the quality of any specific programs should bring their concerns to the Division.

Therefore, I am unable to sign this measure.

Sincerely,

Arnold Schwarzenegger

**AB 2850 (Ridley-Thomas)**

I am returning Assembly Bill 2850 without my signature.

This bill requires private security service contractors to retain employees employed by the previous contractor for a period of at least 90 days. Since security concerns, particularly in Californias high rises and government buildings, are higher than ever before, it is imperative that security service contractors are able to make the necessary staffing decisions that best provide the security their clients demand.

In many cases, a new contractor will call upon the knowledge and expertise of the existing employees in order to provide that protection. This is even more likely considering the amount of training required for private security guards under current law. Retaining current employees would not only provide the contractor this expertise but also save the contractor the costs of the training. A statutory mandate is not needed for contractors to appreciate these incentives.

Sincerely,

Arnold Schwarzenegger

**AB 3018 (Koretz)**

I am returning Assembly Bill 3018 without my signature.

Inconsistent interpretation of existing law has created confusion relative to when and how employers must provide meal and rest periods to their employees. This confusion has left many employers facing steep penalties for failing to adhere to the law, even if they believe they have met all required mandates. In addition, increased penalties for failing to provide necessary meal and rest periods have, unfortunately, provided incentive for some to take advantage of the confusion in this area in the hope of securing hefty awards from employers. This confusion is also hurting employees, as employers are growing so fearful of being hit with claims and lawsuits that they are resorting to rigid policies that deny employees any flexibility in when they may take their meal and rest periods.

This bill addresses this problem for unionized employers in the transportation industry, allowing the establishment of specific criteria regulating meal periods via collective bargaining. Unfortunately, this problem impacts both union and non-union employers and spreads across almost all industries.

In addition, I believe that a good portion of this issue can be addressed administratively. Regulations are warranted to clarify when an employer has complied with the mandate to provide meal and rest periods. I am directing the Labor and Workforce Development Agency to immediately commence rulemaking on the regulations it believes necessary to resolve the confusion in existing law without hindering employees access to meal and rest periods in any manner. If issues are identified that cannot be remedied administratively, I am asking the agency to propose legislation to address them next year.

Sincerely,

Arnold Schwarzenegger

**AB 3021 (Koretz)**

I am returning Assembly Bill 3021 without my signature.

This bill requires additional reporting requirements that are not necessary. This bill creates burdensome new mandates that do not produce any identifiable benefit that results in improving Californias economic climate or leads to job creation.

Sincerely,

Arnold Schwarzenegger